



# भारत का राजपत्र

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

### RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on 14th December, 1999:—

BILL No. XLV OF 1999.

*A Bill further to amend the Copyright Act, 1957.*

Be it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Copyright (Amendment) Act, 1999.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

14 of 1957.

Amendment of section 2.

2. In the Copyright Act, 1957 (hereinafter referred to as the principal Act), in section 2, in clause (o), for the words "data basis", the word "databases" shall be substituted.

Amendment of section 14.

3. In section 14 of the principal Act, in clause (b), for sub-clause (ii), the following shall be substituted, namely:—

"(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme:

Provided that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.".

Amendment of  
section 38.

4. In section 38 of the principal Act, in sub-section (2), for the words "twenty-five years", the words "fifty years" shall be substituted.

Insertion of  
new section  
40A.

5. After section 40 of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to apply Chapter VIII to broadcasting organisations and performers in certain other countries.

"40A. (1) If the Central Government is satisfied that a foreign country (other than a country with which India has entered into a treaty or which is a party to a convention relating to rights of broadcasting organisations and performers to which India is also a party) has made or has undertaken to make such provisions, if any, as it appears to the Central Government expedient to require, for the protection in that foreign country, of the rights of broadcasting organisations and performers as is available under this Act, it may, by order published in the Official Gazette, direct that the provisions of Chapter VIII shall apply—

(a) to broadcasting organisations whose headquarters is situated in a country to which the order relates or, the broadcast was transmitted from a transmitter situated in a country to which the order relates as if the headquarters of such organisation were situated in India or such broadcast were made from India;

(b) to performances that took place outside India to which the order relates in like manner as if they took place in India;

(c) to performances that are incorporated in a sound recording published in a country to which the order relates as if it were published in India;

(d) to performances not fixed on a sound recording broadcast by a broadcasting organisation the headquarters of which is located in a country to which the order relates or where the broadcast is transmitted from a transmitter which is situated in a country to which the order relates as if the headquarters of such organisation were situated in India or such broadcast were made from India.

(2) Every order made under sub-section (1) may provide that—

(i) the provisions of Chapter VIII shall apply either generally or in relation to such class or classes of broadcasts or performances or such other class or classes of cases as may be specified in the order;

(ii) the term of the rights of broadcasting organisations and performers in India shall not exceed such term as is conferred by the law of the country to which the order relates;

(iii) the enjoyment of the rights conferred by Chapter VIII shall be subject to the accomplishment of such conditions and formalities, if any, as may be specified in that order;

(iv) Chapter VIII or any part thereof shall not apply to broadcast and performances made before the commencement of the order or that Chapter VIII or any part thereof shall not apply to broadcasts and performances broadcast or performed before the commencement of the order;

(v) in case of ownership of rights of broadcasting organisations and performers, the provisions of Chapter VIII shall apply with such exceptions and modifications as the Central Government may, having regard to the law of the foreign country, consider necessary.".

6. After section 42 of the principal Act, the following section shall be inserted, namely:—

"42A. If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to rights of broadcasting organisations or performers, the Central Government may, by order published in the Official Gazette, direct that such of the provisions of this Act as confer right to broadcasting organisations or performers, as the case may be, shall not apply to broadcasting organisations or performers whereof are based on incorporated in such foreign country or are subjects or citizens of such foreign country and are not incorporated or domiciled in India, and thereupon those provisions shall not apply to such broadcasting organisations or performers.".

Insertion of new section 42A.

Power to restrict rights of foreign broadcasting organisations and performers.

7. In section 52 of the principal Act, in sub-section (1),—

Amendment of section 52.

(a) after clause (aa), the following clauses shall be inserted, namely:—

"(ab) the doing of any act necessary to obtain information essential for operating inter-operability of an independently created computer programme with other programmes by a lawful possessor of a computer programme provided that such information is not otherwise readily available;

(ac) the observation, study or test of functioning of the computer programme in order to determine the ideas and principles which underline any elements of the programme while performing such acts necessary for the functions for which the computer programme was supplied;

(ad) the making of copies or adaptation of the computer programme from a personally legally obtained copy for non-commercial personal use;";

(b) in the proviso to clause (p), for the words "fifty years", the words "sixty years" shall be substituted.

**STATEMENT OF OBJECTS AND REASONS**

India is a signatory to the Agreement on Trade Related Aspects of Intellectual Property Right (TRIPS). As per Article 14 of the Agreement, the term of protection available to performers shall last at least until the end of a period of fifty years computed from the end of the calendar year in which the performance took place. Section 38 of the Copyright Act, 1957, *inter alia*, provides that the performers' right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the performance is made. It is proposed to extend the term of protection of performers' rights from twenty-five years to fifty years and to provide for powers to the Government to extend the provisions of the Copyright Act to broadcasts and performances made in other countries, provided those countries extend similar protection to broadcasts and performances made in India. Extension of the period of protection of performers' rights to fifty years as well as extending applicability of provisions of Copyright Act to broadcasts and performances in other countries shall benefit the Indian broadcasting organisations and performers to get reciprocal protection for their rights in other countries which are signatories to TRIPS. It is also proposed to carry out certain minor modifications in the Act.

2. The Bill seeks to achieve the above objects.

MURLI MANOHAR JOSHI.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to insert a new section 40A, in the Copyright Act, 1957, relating to power of Central Government to apply Chapter VIII of the Act to broadcasting organisations and performers of certain other countries. The proposed new section 40A seeks to empower the Central Government to issue order, published in the Official Gazette, applying the provisions of Chapter VIII of the aforesaid Act to the broadcasting organisations and performers in a country (other than a country, with which India has entered into a treaty or, which is a party to a convention relating to rights of broadcasting organisations and performers to which India is also a party) in case such country has made or has undertaken to make such provisions as it appears to Central Government expedient to require for the protection in the foreign country of the rights of broadcasting organisations and performers similar to those as is available in India. Clause 6 proposes to insert a new section 42A relating to power to restrict rights of foreign broadcasting organisations and performers in the aforesaid Act. The proposed new section seeks to empower the Central Government to issue order, published in the Official Gazette, restricting the rights of foreign broadcasting organisations and performers if the Central Government is satisfied that the foreign country does not give or has not undertaken to give adequate protection to rights of broadcasting organisations or performers, as is available in India. These new provisions are sought to be inserted in Chapter IX relating to International Copyright of the Act. Section 43 of the Act requires that the Central Government shall lay before both Houses of Parliament every such order made under Chapter IX.

2. It is not practicable to provide for those matters in respect of which orders may be made by the Central Government under proposed new sections 40A and 42A in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

R.C. TRIPATHI,  
*Secretary-General.*

